(21)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C).NO.203/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

M.A.(C.) NO. 203 OF 2007

APPELLANT
NON-CLAIMANT No. 1 United India Insurance Co. Ltd., through Branch Manager, Paras Complex, in front of State Bank of India, Gurudwara Station Road, Durg, District Durg (C.G.)

Versus

RESPONDENTS

1. Shivbati, w/o Pancham Singh Verma, aged 38 years, House-wife, r/o village Betar, Tahsil Bemetara, Thana Bemetara, Distt. Durg
2. Rajkumar Verma, s/o Late Shri Pancham Singh Verma, aged about 20 years, student Polytechnic College, r/o village Betar, Tahsil Bemetara
3. Suraj Verma, s/o Late Shri Pancham Singh Verma, aged about 16 years, student, Minor, Wali through mother Shivbati, w/o Pancham Singh Verma, r/o village Betar, Tahsil Bemetara, Distt. Durg (C.G.)
4. Yom Kumar Verma, son of Shatruhan Lal Verma, R/o village Bagledi, Post Kestara, Tahsil Saja, Distt. Durg (C.G.)

SB: HON'BLE SHRI DHIRENDRA MISHRA, J.

2.7.2007

Shri Sanjay S. Agrawal, counsel for the appellant.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C).No. 203/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Heard on admission.

The appellant Insurer has preferred this appeal against the award dated 31st October, 2006 passed by the Additional Motor Accident Claims Tribunal, Bemetara, Distt. Durg in Claim Case No. 11/2006 whereby a sum of Rs. 1,72,000/- with interest at the rate of 6% per annum has been awarded from the date of application to the claimants under Section 163 – A of Motor Vehicles Act, 1988 (for short, hereinafter referred to as the Act).

The only ground urged by learned counsel for the appellant in support of this appeal is that undisputedly the claimants have claimed for compensation towards death of Pancham who died in a motor vehicle accident on 18-10-2005 while he himself was driving the motorcycle. Earlier the application was preferred by the claimants under Section 166 of the Act but the claimants could not have preferred the application towards death of deceased who himself was driving the vehicle and the insurance company could not be held responsible for any compensation, as a result of the accident which occurred due to negligence of the deceased himself.

From the perusal of the impugned award, it is observed that the award has been made under Section 163-A of the Act by the learned Claims Tribunal. From perusal of the record of the Claims Tribunal, it is observed that after filing the petition under Section 166 of the Act, the claimants moved an application for amendment in the claim petition and to incorporate that the petition is under

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MAC(C) No. 2031/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Section 163-A of the Act and same has been allowed by the Tribunal vide order dated 27-10-2006. Section 163-A of the Act which has been incorporated in the Act with effect from 14-11-1994 stipulates as under :-

> **"163A. Special provisions as to payment of compensation on structured formula basis-** (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.
>
> *Explanation.*- For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).
>
> **(2)** In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other persons.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C) No. 203/2007 सन् ~~200~~

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	(3) xxx xxx xxx"	

Considering the provisions of Section 163-A of the Act, this Court is of the opinion that the grievance urged by the appellants for the purposes of this appeal is not available to the appellants. There is no illegality or infirmity in the impugned award.

The appeal is dismissed at admission stage.

Sd/-
Dhirendra Mishra
Judge